THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.23156 OF 1999

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DATED 15.11.2005

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BETWEEN

Sultan-Ul-Loom Educational Society, Mount Pleasant,

D.No.8-2-249, Road No.3, Banjara Hills, Hyderabad,

Rep.by its Secretary Ghiyasuddin Babu Khan.

… Petitioner

and

The Secretary, State of A.P., Municipal Administration, Secretariat, Hyderabad and others.

… Respondents

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ORDER:

Sultan-Ul-Loom Educational Society (the Society, for brevity) is registered under A.P. (Telangana Area) Public Societies Registration Act, 1350F and is running various educational institutions in twin cities of Hyderabad – Secunderabad. It owns considerable extents of properties in Survey No.359/172 of Shaikpet village, Banjara Hills, where it has constructed number of buildings for educational institutions. In this writ petition, it assails the notification, dated 12.08.1998, issued

by the second respondent under Section 4(1) of the Land Acquisition Act, 1894 (the Act, for brevity) and also the declaration, dated 24.08.1998, made under Section 6(1) of the Act. Be it noted, the land admeasuring 1176.85 square yards belonging to petitioner Society standing in the name of H.E.H.Mir Osman Ali Khan, father of H.E.H.Mir Mojam Jahi Bahadur, is sought to be acquired for improvement and formation of four-lane road from Hyderabad Airport to Madhapur. It is nextly contended that the District Collector is not competent to issue the impugned notification and declaration, that there was no urgency to invoke the provisions of Section 17(4) of the Act and that the publication of notification under Section 4(1) and declaration under Section 6(1) of the Act simultaneously, is bad and illegal.

A detailed counter affidavit is filed denying various allegations made in the affidavit accompanying the writ petition filed by the Secretary of the petitioner Society. In the counter affidavit filed by the third respondent, i.e., the Land Acquisition Officer, it is stated that the enquiry under Section 5-A of the Act was dispensed with by invoking the provisions of Section 17(4) of the Act, the draft notification under Section 4(1) and draft declaration under Section 6(1) were simultaneously submitted to the District Collector for approval but they were published in two separate gazette notifications, therefore, the contention of the learned counsel for the petitioner is not correct. The reasons for invoking Section 17(4) of the Act dispensing with enquiry are also given in the counter affidavit. It is further stated that the Land Acquisition Officer during award enquiry issued notice under Section 9(3) of the Act to the petitioner Society, who submitted claim forms claiming compensation and the same is under consideration.

The learned counsel for the petitioner, Sri N.Sridhar Reddy, has reiterated the submissions noticed hereinabove. The learned Assistant Government Pleader for Revenue (Land Acquisition) has produced the relevant file before this Court in support of the contentions he advanced opposing the writ petition.

A perusal of the notification issued under Section 4(1) and the declaration under Section 6(1) of the Act would show that both are published at different dates. A perusal of the file produced by the learned Assistant Government Pleader would show that these two were sent to the District Collector simultaneously and though they were approved as such, they were published on different dates. Under the provisions of the Act, there is no such prohibition for the competent authority to approve the notification under Section 4(1) and declaration under Section 6(1) of the Act and when the enquiry under Section 5-A is dispensed with invoking the provisions of Section 17(4) of the Act. Therefore, the objection of the petitioner Society on this ground has to be overruled. Insofar as the submission that there is no urgency to invoke the provisions of Section 17(4) of the Act is concerned, this Court has repeatedly held that in a growing metropolitan city like Hyderabad, there is always urgent need to widen the existing roads, which can by no stretch of imagination, can be called ‘adequately provided wider roads’. When there are regular traffic bottlenecks at different places, this Court cannot differ with the view of the Executive that there is urgent need for providing wider roads. The acquisition under challenge is for road widening, i.e., the improvement and formation of four-lane road leading from Hyderabad Airport to Madhapur. This Court can take judicial

notice of the fact that in post 1994 period, there has been a phenomenal economic growth in the field of Information and Communication Technology services and many international Information Technology companies have set up their shop at Madhapur in Hyderabad. The traffic on the proposed four-lane road has increased multifold and if free flow of traffic is not ensured by providing wider roads, the economic interest of the city and the State would suffer. Be it remembered, hassle free infrastructure facilities alone would invite investment into State which will certainly lead to more employment generation, which is an urgent need of the day for the country's youth. Therefore, there is no merit in the contention of the learned counsel for the petitioner.

It is brought to the notice of this Court by the learned Assistant Government Pleader that the petitioner Society has made a claim for an amount of Rs.2,64,70,500/- and the same shall be considered by Land Acquisition Officer during award enquiry depending on the market value that was prevailing in 1998.

The writ petition, with the above observations, is accordingly dismissed. There shall be no order as to costs.

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(V.V.S.RAO,J)

15.11.2005.

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